

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW)	NOTICE OF PUBLIC HEARING ON
RULE I through NEW RULE X and)	PROPOSED ADOPTION AND
the amendment of ARM 10.13.307,)	AMENDMENT
10.13.310 through 10.13.313)	
pertaining to traffic education)	

TO: All Concerned Persons

1. On December 20, 2011, at 9:00 a.m., the Superintendent of Public Instruction will hold a public hearing in the Superintendent's Conference Room at the Office of Public Instruction building located at 1227 11th Avenue, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

2. The Superintendent of Public Instruction will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Office of Public Instruction no later than 5:00 p.m. on Monday, December 15, 2011 to advise us of the nature of the accommodation that you need. Please contact Beverly Marlow, Office of Public Instruction, P.O. Box 202501, Helena Montana, 59620-2501; telephone (406) 444-3172; fax (406) 444-2893; or e-mail bemarlow@mt.gov.

3. Statement of Reasonable Necessity: The Superintendent of Public Instruction has determined that it is reasonable and necessary to adopt and amend the above-stated rules to implement legislation requiring graduated drivers' licenses, to clarify responsibilities and coordination with the Department of Justice's driver license statutes and rule, to provide necessary details for driver education program requirements including content standards and benchmarks, and for clarification and consistency.

Driving is an activity that affects the whole community. A successful program, therefore, requires the effective involvement of parents/guardians, schools, communities, and government agencies. Benchmarks define the expectations for students' knowledge, skills, and abilities. Performance standards define the quality of student performance and describe the performance to be demonstrated. Performance level descriptors provide a picture or profile of student achievement at the four performance levels: competent, proficient, nearing proficiency, and novice. Rules for content standards and benchmarks are required for curricula development, program approval, and student training.

4. The rules as proposed to be adopted provide as follows:

NEW RULE I. TRAFFIC EDUCATION CONTENT, BENCHMARKS, AND PERFORMANCE STANDARDS (1) The content and performance standards shall be used by school districts to develop local curriculum and assessment to provide

structured opportunities for students to learn, acquire, and demonstrate legal and safe driving skills, habits, and responsibilities through guided practice and resulting in a lifelong commitment to learning the driving task.

(2) Benchmarks define the expectations for students' knowledge, skills, and abilities.

(3) Performance standards define the quality of student performance and describe the performance to be demonstrated, providing a picture or profile of student achievement at the four performance levels: competent, proficient, nearing proficiency, and novice.

AUTH: 20-7-502, MCA

IMP: 20-7-502, MCA

NEW RULE II TRAFFIC EDUCATION CONTENT STANDARD 1 AND BENCHMARKS - LAWS AND HIGHWAY SYSTEM (1) To satisfy the requirements of traffic education content standard 1, a student must demonstrate knowledge and understanding of the highway transportation system and the laws governing the operation of a motor vehicle.

(2) The benchmarks for traffic education content standard 1 for a student upon completion of the program are the ability to:

- (a) know the laws outlined in the Montana Driver's Manual;
- (b) understand the laws outlined in the Montana Driver's Manual; and
- (c) consistently demonstrate knowledge and understanding by responsible adherence to highway transportation system traffic laws and control devices.

AUTH: 20-7-502, MCA

IMP: 20-7-502, MCA

NEW RULE III TRAFFIC EDUCATION CONTENT STANDARD 2 AND BENCHMARKS - RESPONSIBILITY (1) To satisfy the requirements of traffic education content standard 2, a student must act responsibly by consistently demonstrating a positive attitude and respect for other roadway users, by obeying laws, and making an observable commitment to safe behaviors and good decision making.

(2) The benchmarks for traffic education content standard 2 for a student upon completion are the ability to:

- (a) recognize the importance of making safe and responsible decisions for owning and operating a motor vehicle;
- (b) demonstrate the ability to make appropriate decisions while operating a motor vehicle;
- (c) consistently display respect for other users of the highway transportation system; and
- (d) demonstrate positive habits and attitudes for responsible driving.

AUTH: 20-7-502, MCA

IMP: 20-7-502, MCA

NEW RULE IV TRAFFIC EDUCATION CONTENT STANDARD 3 AND BENCHMARKS - VISUAL SKILLS

(1) To satisfy the requirements of traffic education content standard 3, a student must demonstrate and analyze the importance of proper visual skills for the safe operation of a motor vehicle.

(2) The benchmarks for traffic education content standard 3 for a student upon completion are the ability to:

- (a) know proper visual skills for operating a motor vehicle;
- (b) communicate and explain proper visual skills for operating a motor vehicle;
- (c) demonstrate the use of proper visual skills for operating a motor vehicle; and
- (d) demonstrate positive habits and attitudes for consistent proper visual skills.

AUTH: 20-7-502, MCA

IMP: 20-7-502, MCA

NEW RULE V TRAFFIC EDUCATION CONTENT STANDARD 4 AND BENCHMARKS - VEHICLE CONTROL

(1) To satisfy the requirements of traffic education content standard 4, a student must demonstrate skill in maneuvering and controlling motor vehicles smoothly, efficiently, and safely.

(2) The benchmarks for traffic education content standard 4 for a student upon completion are the ability to:

- (a) demonstrate smooth, safe, and efficient operation of a motor vehicle; and
- (b) demonstrate positive habits and attitudes for safe, efficient, and smooth vehicle operation.

AUTH: 20-7-502, MCA

IMP: 20-7-502, MCA

NEW RULE VI TRAFFIC EDUCATION CONTENT STANDARD 5 AND BENCHMARKS - COMMUNICATION

(1) To satisfy the requirements of traffic education content standard 5, a student must communicate and interact with the highway transportation system and other roadway users utilizing prescribed, effective, and safe practices.

(2) The benchmarks for traffic education content standard 5 for a student upon completion are the ability to:

- (a) consistently communicate their driving intentions (i.e., use of lights, vehicle position, and personal signals);
- (b) adjust their driver behavior based on observation of the highway transportation system and other roadway users;
- (c) adjust communication of driving intentions (i.e., use of lights, vehicle position, and personal signals) based on observation of the highway transportation system and other users; and
- (d) demonstrate positive habits and attitudes for effective communication.

AUTH: 20-7-502, MCA

IMP: 20-7-502, MCA

NEW RULE VII TRAFFIC EDUCATION CONTENT STANDARD 6 AND BENCHMARKS - RISK MANAGEMENT (1) To satisfy the requirements of traffic education content standard 6, a student must demonstrate and safely apply driver risk-managing (defensive driving) strategies, behaviors, and habits, including measures to maintain distraction-free driving.

(2) The benchmarks for traffic education content standard 6 for a student upon completion are the ability to:

- (a) understand driver risk-management principles;
- (b) demonstrate driver risk-management strategies; and
- (c) demonstrate positive habits and attitudes for effective driver risk-management.

AUTH: 20-7-502, MCA

IMP: 20-7-502, MCA

NEW RULE VIII TRAFFIC EDUCATION CONTENT STANDARD 7 AND BENCHMARKS - LIFELONG LEARNING (1) To satisfy the requirements of traffic education content standard 7, a student must advocate for personal and public approaches to lifelong learning of the driving task.

(2) The benchmarks for traffic education content standard 7 for a student upon completion are the ability to:

- (a) identify and use a range of learning strategies required to acquire or retain knowledge, positive driving habits, and driving skills for lifelong learning;
- (b) establish learning goals that are based on an understanding of one's own current and future learning needs; and
- (c) demonstrate knowledge and ability to make informed decisions required for positive driving habits, effective performance, and adaptation to change.

AUTH: 20-7-502, MCA

IMP: 20-7-502, MCA

NEW RULE IX TRAFFIC EDUCATION CONTENT STANDARD 8 AND BENCHMARKS - DRIVING EXPERIENCE (1) To satisfy the requirements of traffic education content standard 7, a student must acquire behind-the-wheel driving experience under the direction of a Montana-approved driver education teacher. Students shall be encouraged to obtain additional experience under the direction of a parent or guardian with a valid driver license in accordance with Title 61, chapter 5, part 1, MCA.

(2) The benchmarks for traffic education content standard 8 for a student upon completion are the ability to:

- (a) acquire at least the minimum number of behind-the-wheel hours over at least the minimum number of days, as required by law, with a Montana-approved driver education teacher; and
- (b) acquire additional behind-the-wheel driving experience with their parent or guardian's assistance in a variety of driving situations (i.e., night, adverse

weather, gravel road, etc.).

AUTH: 20-7-502, MCA

IMP: 20-7-502, MCA

NEW RULE X TRAFFIC EDUCATION PERFORMANCE STANDARDS

(1) Traffic education performance standards describe students' knowledge, skills, and abilities in the driver education content area. These descriptions provide a picture or profile of student achievement at the four performance levels: competent, proficient, nearing proficiency, and novice. These standards are not exhaustive indications of performance, but demonstrate a range of skill and knowledge relative to the established standards and identified benchmarks.

(2) A driver at the competent level:

- (a) exhibits strong knowledge and driving skills related to safely navigating roadways and interacting with other roadway users;
- (b) shows consistent performance, driving behavior that is largely automatic, and exhibits driving behaviors safely and correctly in many different kinds of driving situations;
- (c) knows and adheres to the laws governing driving in Montana as demonstrated by habitually and consistently following the laws while driving;
- (d) knows and adheres to the highway transportation system as demonstrated by habitually driving consistent with the system;
- (e) always responsibly, properly, and smoothly operates a vehicle;
- (f) consistently researches ideas and opportunities to increase personal knowledge of the vehicle, the highway transportation system, and the driving task;
- (g) habitually knows and responsibly applies defensive driving principles;
- (h) has acquired behind-the-wheel driving experience in various environments and road conditions for a period of time that exceeds the state minimum standards and graduated driver license requirements; and
- (i) resists peer pressure, which may negatively influence good, responsible driving behavior.

(3) A driver at the proficient level:

- (a) exhibits solid academic and driving skill performance for each benchmark;
- (b) has demonstrated competency over challenging subject matter, including subject-matter knowledge, application of such knowledge to real-world situations, and analytical skills appropriate to safe driving;
- (c) shows more consistent performance, but still uses conscious effort to demonstrate responsible and safe driving behavior;
- (d) demonstrates and consistently applies laws pertaining to driving;
- (e) consistently uses risk-managing driving principles;
- (f) demonstrates mastery of safe and responsible driving habits and attitudes;
- (g) performs satisfactorily in obtaining the minimum number of behind-the-wheel hours with an approved driver education teacher;
- (h) consistently interacts appropriately with other operators and traffic in various driving situations;
- (i) demonstrates basic skills needed to interact safely with the highway transportation system;

- (j) demonstrates appropriate visual skills needed to safely operate a motor vehicle;
 - (k) demonstrates habits and attitudes necessary to communicate and interact with the highway transportation system utilizing effective, safe practices; and
 - (l) understands the laws that pertain to owning and operating a motor vehicle.
- (4) A driver at the nearing proficiency level:
- (a) exhibits partial mastery or prerequisite knowledge and driving skills fundamental for proficient work at each benchmark;
 - (b) demonstrates partial mastery of the knowledge and skills fundamental for responsible and safe driving;
 - (c) shows inconsistent performance and must use conscious effort;
 - (d) understands that the laws of Montana, counties, and cities can differ;
 - (e) demonstrates a limited ability to use risk-managing driving principles;
 - (f) shows limited knowledge of motor vehicle laws while driving a motor vehicle;
 - (g) most of the time shows proficiency of safe and responsible driving techniques and attitudes;
 - (h) performs in a limited manner after obtaining the minimum number of behind-the-wheel hours with an approved driver education teacher;
 - (i) with assistance, can use basic skills needed to interact safely with the highway transportation system; and
 - (j) with assistance, demonstrates the visual skills needed to operate a motor vehicle.
- (5) A driver at the novice level:
- (a) is beginning to attain the prerequisite knowledge and driving skills that are fundamental for work at each benchmark;
 - (b) is just beginning to acquire the knowledge and skill needed for safe and responsible driving;
 - (c) shows weak driving skills, must use full concentration, and is easily distracted;
 - (d) struggles with traffic in various driving situations, even with assistance;
 - (e) is rarely able to use the risk-managing driving skills;
 - (f) has difficulty interacting with others in a safe, courteous manner;
 - (g) demonstrates limited understanding of the highway transportation system;
 - (h) rarely demonstrates the visual skills needed to operate a motor vehicle;
 - (i) shows little understanding of the local and state laws of Montana;
 - (j) with assistance, has begun to drive in rural, urban, and residential environments;
 - (k) has begun to learn signs, signals, and pavement markings;
 - (l) has difficulty in comprehending and applying vehicle laws while driving a motor vehicle within a supervised environment;
 - (m) demonstrates a limited proficiency of safe and responsible driving techniques and attitudes; and
 - (n) performs at a beginning level after obtaining the minimum number of behind-the-wheel hours with an approved driver education teacher.

AUTH: 20-7-502, MCA

IMP: 20-7-502, MCA

5. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

10.13.307 PROGRAM REQUIREMENTS - DEFINITIONS (1) An approved traffic education program for young novice drivers ~~shall~~ must:

(a) be provided only by school districts operating a middle school, junior high school, or high school;

(b) remains the same.

(c) be taught by a teacher(s) of traffic education approved by the Superintendent of Public Instruction;

(d) ~~be~~ use a curriculum that meets the content standards and benchmarks of [NEW RULE II - X] and includes the dangers of physical and cognitive distractions while driving as required by 61-5-135, MCA and is based on a curriculum guide, or guides, readily available for review from the sSuperintendent of pPublic iInstruction or traffic education staff. A student must meet the minimum performance objectives identified by the local school district and fulfill the state required hourly and minimum student contact day requirements contained in this part, in order to be considered as having successfully completed the program;

(e) use lesson plans that maximize student-centered learning activities and integrate objective-based route plans for behind-the-wheel instruction;

(f) base the successful completion of driver education for each student on criteria identified by the local school district; the minimum number of hours and student contact days; and other applicable standards required in this part;

~~(e)~~ (g) be scheduled so that a sufficient number of courses are provided to allow every eligible student within the school's geographic jurisdiction an equitable opportunity to enroll pursuant to 61-5-106, MCA;

~~(f)~~ (h) consist of at least 60 hours of structured learning experiences:

~~(i)~~ (i) scheduled over no less than ~~20~~ 25 student contact days for each student;

~~(ii)~~ (ii) ~~beginning September 1, 2002, scheduled over no less than 21 student-~~
~~contact days;~~

~~(iii)~~ (iii) ~~beginning September 1, 2003, scheduled over no less than 23 student-~~
~~contact days;~~

~~(iv)~~ (iv) ~~beginning September 1, 2004, scheduled over no less than 25 student-~~
~~contact days; and~~

~~(v)~~ (v) ~~including no fewer than six hours of behind-the-wheel, in-traffic driving~~
~~instruction; and~~

~~(vi)~~ (vi) ~~effective September 1, 2002, including no fewer than six hours of behind-~~
~~the-wheel, in-traffic driving instruction by an Office of Public Instruction approved traffic~~
~~education teacher~~ scheduled over no less than six student contact days; of which:

~~(g)~~ (g) ~~to meet the requirements in (1)(f):~~

~~(i)~~ (i) ~~twelve hours of simulation may be substituted for two hours of behind-~~
~~the-wheel instruction or six hours of simulation may be substituted for one hour of behind-~~
~~the-wheel instruction~~ for those schools having traffic simulator equipment approved by
the Oeoffice of Ppublic Iinstruction; or

~~(ii)~~ (ii) ~~up to 12 of the 60 hours required hereunder may be satisfied by in-vehicle~~

observation of an approved teacher instructing another novice driver;

~~(h)~~ (i) provide behind-the-wheel instruction only to students who are currently participating in classroom instruction. All traffic education program phases must be conducted using concurrent or integrated scheduling;

~~(i)~~ (j) use only dual-control vehicles that are equipped according to vehicle standards in ARM 10.13.311 established by the superintendent of public instruction;

~~(j)~~ (k) have property and liability insurance sufficient to protect the school, teachers, students, the public, the vehicle(s), and its owner;

~~(k)~~ (l) use the ~~e~~Office of p~~Public i~~nstruction form entitled "School/Dealer Vehicle Use Agreement" (form TE02) or the school's equivalent form when a traffic education loan vehicle is procured from a vehicle dealer; and

~~(l)~~ (m) complete all reports and documents required by the Office of Public Instruction and the Department of Justice, Motor Vehicle Division in the time frames required; and

(n) include a parent meeting at the beginning of the driver education class that covers:

(i) course schedule, requirements, and expectations of the teen student and the parents/guardians;

(ii) information on Montana's graduated driver licensing (GDL) law;

(iii) best practices in GDL; and

(iv) parental involvement, including:

(A) managing their teen's graduated learning process through each stage of the GDL;

(B) tips on supervising the driving practice during the initial permit phase;

(C) tips to determine when their teen is ready for the next step in driving;

(D) objectives for success and significant hazards associated with each driving phase; and

(E) information and tools to negotiate and adopt a written agreement between the teen and parent that reflects the expectations of both, including clearly defined restrictions, privileges, rules, and consequences that serve as a basis for the teen to earn and for the parent to grant progressively broader driving privileges; and

(v) any other information that the district considers important for the successful and safe completion of driver education.

~~(2) Schools wishing to depart from any of the above requirements must submit clear and complete explanation to the traffic education specialist, Office of Public Instruction, along with the school-district application forms. Approval of a departure request must be granted before the program begins.~~

~~(3)~~ A school's failure to comply with the program requirements outlined herein shall be grounds for the Superintendent ~~or~~ of Public Instruction to deny or revoke the approval of the school's traffic education program application.

~~(4)~~ (3) As used in subchapter 3, program standards and course requirements for traffic education, the following definitions apply:

(a) "Behind-the-wheel" means operator training by an OPI approved traffic education teacher in a vehicle that meets the requirements of ARM 10.13.311;

(b) "Concurrent scheduling" means scheduling the traffic education program without an interruption of instruction between classroom instruction and behind-the-wheel instruction;

~~(b)~~ (c) "Eligible student" means any youth who lives within the geographic boundaries of the public school district whether or not they are enrolled in the public school district and who meets the age requirements of ARM 10.13.312 and has not yet reached 19 years of age on or before September 10 of the school year in which the student participates in traffic education.

~~(i)~~ For the purposes of this rule, traffic education programs conducted during summer months shall be considered part of the school year immediately preceding the summer months;

~~(e)~~ (d) "Equitable" means treating all eligible students fairly and without bias in the notification, enrollment, and class administration procedures associated with traffic education;

(e) "In-traffic" means operator training on roadways open to and with public traffic including up to 30 minutes of initial vehicle familiarization and training in little-used parking lots;

~~(d)~~ (f) "Integrated scheduling" means scheduling the traffic education program to include a blend of classroom instruction and associated behind-the-wheel instruction during the duration of the traffic education course;

(g) "Student contact day" means a day that a teacher engages a student in a structured learning activity of the district's traffic education curriculum that applies toward the required minimum of 60 hours of instruction, whether it be classroom instruction, teacher-directed learning activities, observation, simulation, or behind-the-wheel instruction.

AUTH: 20-7-502, MCA

IMP: 20-7-502, 61-5-131, 61-5-132, 61-5-133, 61-5-134, 61-5-135, MCA

10.13.310 TRAFFIC EDUCATION TEACHERS (1) All teachers of traffic education shall have: must be familiar with current graduated driver licensing laws and best practices, be able to provide clear, correct, and appropriate information to driver education students and their parents, and have approval from the Superintendent of Public Instruction.

(2) Approval is contingent upon the applicant having:

(a) a qualifying, valid Montana teaching certificate educator license;

~~(b) approval as a teacher of traffic education issued by the superintendent of public instruction. Approval to teach traffic education shall be renewed with each renewal of the teacher's teaching certificate;~~

~~(c) (b) a minimum of eight semester or 12 quarter hours of credit course work in traffic safety education. This eight or 12-hour block which must include a driver task analysis (classroom instruction) and behind-the-wheel (developing vehicle operational skills) course; For each succeeding renewal of the teacher's teaching certificate, after initial approval, the teacher must accumulate four semester or six quarter hours of qualifying credit course work in traffic safety education, until such time as an endorsable minor, or its equivalent (20 semester or 30 quarter qualifying credits), has been completed;~~

(c) appropriate coursework for a Class 4B, 4C, or 7 Montana-approved educator license including teaching strategies and class management, but which does not count as a traffic education course requirement or elective toward the traffic

education minor; and

(d) a valid driver's license; and

(e) a local, state and national driving record free from all of the following: with a verified acceptable driving record from Montana and any other jurisdiction within which the applicant has been licensed to drive during the 10-year period immediately preceding the date of application. The driving record shall be free from:

(i) more than one moving traffic conviction violation, as defined in 61-11-203, MCA, within any 12-month period of the previous 36 months;

(ii) any alcohol related traffic conviction within the preceding 36 months any conviction for driving under the influence of alcohol or drugs (DUI) under 61-8-401, 61-8-406, or 61-8-410, MCA, within the preceding 36 months, or any conviction for a violation of a substantially similar offense from any other jurisdiction within the preceding 36 months;

(iii) any driver's license suspension, cancellation, revocation or denial within the preceding five years any evidence of a refusal to take a test under an implied consent law in this or any other jurisdiction, or a test result under an implied consent law in any other jurisdiction that shows an alcohol concentration of 0.08% or more while operating a noncommercial motor vehicle or an alcohol concentration of 0.04% or more while operating a commercial motor vehicle within the preceding 36 months;

(iv) any involvement in any fatal traffic accident during the previous five years resulting in: a conviction resulting in mandatory revocation or suspension of a driver's license for any of the following offenses in the previous five years:

(A) a conviction of a crime; or negligent homicide resulting from the operation of a motor vehicle;

(B) the imposition of civil liability; fleeing from or eluding a peace officer;

(C) negligent vehicular assault as defined in 45-5-205, MCA; or

(D) any felony in the commission of which a motor vehicle is used;

(v) judgment under 61-6-102(3), MCA resulting in the imposition of civil liability for involvement in any fatal traffic accident during the previous five years; or

(vi) a declaration of habitual traffic offender status pursuant to as defined in 61-11-201 et Seq. 61-1-203, MCA, during the previous ten years.

(2) (3) For the purposes of this rule, the definition of "conviction" includes, but is not limited to, entry of a guilty plea, "per se" convictions, pleas of "no contest" or similar pleas is as stated in 61-5-213, MCA.

(4) Approval to teach traffic education shall be renewed with each renewal of the traffic education teacher's educator license. For each succeeding renewal of the educator license after initial approval, the teacher must accumulate at least four semester or six quarter hours of qualifying course work in traffic safety education until an endorsable minor or its equivalent (20 semester or 30 quarter qualifying credits) has been completed.

(3) (5) If a teacher's approval to teach traffic education has expired and the teacher has not met the renewal requirements of (1)(c) (4), the teacher may request an extension for approval to teach traffic education, subject to the following:

(a) A one-time, one-year emergency extension of approval may be granted for a teacher who received initial approval but who has not been able to complete the required four semester or six quarter traffic education credits for reapproval. The public school district or eligible nonpublic school shall submit a letter to the Office of Public

Instruction stating it has advertised for a traffic education teacher and that no qualified individuals were available to teach. In addition, the teacher for whom the school is seeking an emergency interim approval shall submit to the Office of Public Instruction a plan outlining how the teacher will satisfy the required coursework within the one-year extended period.

(b) A one-time, extenuating circumstance extension of approval may be granted for a period up to two years. The district and teacher shall submit the same documentation required in (2 5)(a). In addition to the above documentation, the teacher shall submit a statement of a compelling reason why coursework deficiencies cannot be completed within one year, and shall assure the Office of Public Instruction that the teacher will complete the traffic education minor, or its equivalent, within the extension period.

(c) If other traffic education teachers are available to the school district, no emergency or extenuating circumstance extensions shall be granted. Both such extensions are contingent upon the other renewal requirements, including a valid driver's license, an approvable driving record, and successful renewal of the teacher's Montana ~~teaching certificate~~ educator license.

(4) (6) A teacher's failure to maintain the requirements for traffic education teacher approval constitutes grounds for the immediate revocation of the approval to teach traffic education. Any revocation of approval may be appealed to the deputy Superintendent of Public Instruction within 30 days of the date of the notice of revocation of approval. The deputy superintendent shall review the revocation and either confirm or reverse the revocation. The deputy superintendent's decision is final.

AUTH: 20-7-502, MCA

IMP: 20-7-502, MCA

10.13.311 TRAFFIC EDUCATION VEHICLES (1) remains the same.

(2) Each traffic education vehicle must meet all federal motor vehicle safety standards (FMVSS) applicable to the vehicle used and be equipped, maintained, repaired, identified, insured, stored, and used according to the following:

(a) Required equipment:

(i) dual-control brake capable of bringing the vehicle to a complete emergency stop;

(ii) ~~(all current federal motor vehicle safety standards (FMVSS));~~

~~(iii)~~ two exterior mirrors and a teacher's rearview mirror;

~~(iv)~~ (iii) first aid kit with contents appropriate for possible minor injuries sustained during instruction;

~~(v)~~ (iv) flares or reflector warning devices;

~~(vi)~~ (v) periodically inspected and operable fire extinguisher located in the passenger compartment;

~~(vii)~~ (vi) accident report forms; and

~~(viii)~~ (vii) operable safety belts for each occupant. All occupants shall utilize a safety belt at any time the vehicle is in motion;

(viii) headlights must be in use at all times -- low or high beam, as appropriate -- during behind-the-wheel instruction.

(b) Recommended equipment:

- (i) power steering and power brakes;
- (ii) split or bucket-type front seat;
- (iii) four-door sedan;
- (iv) air conditioning;
- (v) tow cable;
- (vi) shovel, ax, and bucket;
- (vii) flashlight;
- (viii) rear window defogger; and
- (ix) ignition cut-off switch.

(c) The vehicles assigned for use in the traffic education program shall be kept in a safe operating condition. Maintenance and repair practices shall be in conformance with manufacturer's recommendations and with the policy established by the school district and participating dealer. Vehicles shall be given a periodic safety inspection by a knowledgeable person. The periodic inspection shall be conducted a minimum of once a year and prior to the annual commencement of behind-the-wheel instruction. The district shall maintain and make available for review by the ~~e~~Office of ~~Public Instruction~~, or its designee, a record of the safety inspections, which include:

- (i) the date of the inspection;
- (ii) items inspected;
- (iii) condition of items inspected; and
- (iv) repairs made.

(d) All vehicles used in the traffic education program are to be identified by ~~either an overhead sign, a rear sign, or both. When the rear sign is used, it must not be so large as to obstruct a driver's rear vision. Decals provided by the dealers are used only in conjunction with one or both types of signs.~~ identified with a minimum of two signs stating: "Student Driver," "Driver Education," or "Driver Education Car" clearly visible and readable to pedestrians and other traffic.

(e) Vehicles provided by dealers on a loan basis shall be used for traffic education purposes only unless the dealer(s) gives written authorization to use the vehicle(s) for other purposes.

(f) "Exempt" license plates shall be obtained for a traffic education vehicle owned by, or provided to the district by a dealer. "Dealer" license plates are not to be used on these vehicles. Responsibility for securing exempt license plates rests with the school district. The school must obtain the appropriate application from the county treasurer. In the space provided for registered owner, type the name and telephone number of the school district and the name of the dealer providing the vehicle.

(g) Each practice-driving vehicle (including motorcycles) must be covered by an amount of insurance that meets or exceeds minimum requirements of local and state financial responsibility statutes.

~~(h) A common method for procuring practice driving vehicles is a school/dealer use agreement between the school or school district and a cooperative automobile dealer or dealer group. Each school district must use the form entitled "School/Dealer Vehicle Use Agreement" (TE02) or its equivalent. This agreement form is self-explanatory and can be obtained by writing to Traffic Education Programs, Office of Public Instruction, P.O. Box 202501, Helena, MT 59620-2501.~~

(i) and (j) remain the same but are renumbered (h) and (i).

AUTH: 20-7-502, MCA

IMP: 20-7-502, MCA

10.13.312 STUDENT ENROLLMENT (1) The trustees of any district operating a public middle school, junior high school, or high school may establish and maintain a traffic education course for eligible students within the district's geographic jurisdiction, provided that students enrolled in the course will have reached their 15th birthday within six months of course completion as prescribed in 61-5-106, MCA. The district shall not be reimbursed for students completing the course at a younger age.

AUTH: 20-7-502, MCA

IMP: 20-7-502, MCA

10.13.313 LEARNER LICENSE (1) through (2)(a)(ii) remain the same.

(iii) the student presents the completed, notarized application and receipts for payment of the permit with proof of identity, certified birth certificate, proof of residency, and social security number to the examiner. The permit is valid for ~~six months~~ one year from the date of receipt.

(iv) through (2)(b)(ii) remain the same.

(iii) the student successfully completes an eye exam and written knowledge test through the CDTP school district as authorized by the ~~d~~Department of ~~j~~Justice, Motor Vehicle Division. The permit is valid for ~~six months~~ one year from the date of successful completion of the written exam; and

(iv) remains the same.

AUTH: 20-7-502, MCA

IMP: 20-7-502, MCA

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Beverly Marlow, P.O. Box 202501, Helena, Montana, 59620-2501; telephone (406) 444-3172; fax (406) 444-2893; or e-mail bemarlow@mt.gov, and must be received no later than 5:00 p.m., December 23, 2011.

7. Ann Gilkey, Chief Legal Counsel for the Office of Public Instruction has been designated to preside over and conduct this hearing.

8. The Superintendent of Public Instruction maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above or may be made by completing a request form at any rules hearing held by the Superintendent.

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by e-mail and telephone on December 21, 2009.

/s/ Ann Gilkey
Ann Gilkey
Rule Reviewer

/s/ Denise Juneau
Denise Juneau
Superintendent of Public Instruction

Certified to the Secretary of State November 14, 2011.